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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,747	04/25/2001	Louis Bouchard	AVALUC-01800	7367
28960	7590	01/27/2005		
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			EXAMINER PHILLIPS, HASSAN A	
			ART UNIT 2151	PAPER NUMBER
DATE MAILED: 01/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/842,747	BOUCHARD, LOUIS	
	Examiner	Art Unit	
	Hassan Phillips	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/1/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to amendments filed on October 25, 2004.

Specification

2. After consideration of the amendments made to the specification to include double spaced lines, the Examiner has withdrawn the objection to the specification.

Claim Rejections - 35 USC § 112

3. After consideration of the amendments made to claims 5, 10-13, 17, and 24 to correct antecedent basis issues, the Examiner has withdrawn the rejections of the claims under 35 USC 112.

Response to Arguments

4. Applicant's arguments filed October 25, 2004 have been fully considered but they are not persuasive. Applicant argued that Cloutier and Stein do not teach:
 - a) Using a wireless device to select a message from a mailbox content list;
 - b) Receiving the selected message on the wireless device.
 - c) Receiving the selected message over a wireless network.

Examiner respectfully submits that Applicant has misinterpreted the prior art of record.

Regarding item a), in col. 3, lines 24-32, Stein teaches: "As a method for **interacting with electronic mail messages on a mobile device**, the mobile device being able to connect to a remote mail server through a wireless data network, an embodiment of the invention includes: ...**selecting one of the entries** of the electronic mail list being displayed on the display screen of the mobile device..." Thus, it is clear that the teachings of Stein provide a means for using a wireless device to select a message from a mailbox content list as claimed by the Applicant.

Regarding item b), Cloutier teaches: "The message recipient may then **remotely retrieve the message** by establishing communications with the enhanced messaging system either by telephone or **other communication media...**" (col. 2, lines 41-45). Although the teachings of Cloutier fail to expressly teach "other communication media" being the wireless device, Stein teaches a method for interacting with messages using a wireless device, Stein col. 3, lines 8-39. Given the teachings of Stein, it would have been obvious to a person of ordinary skill in the art at the time of the present invention to modify the teachings of Cloutier with Stein to have the wireless device belong to the group of "other communication media" for the purpose of receiving the selected message on the wireless device.

Regarding item c), as mentioned previously, in col. 3, lines 24-32, Stein teaches: "As a method for **interacting with electronic mail messages on a mobile device**, the **mobile device being able to connect to a remote mail server through a wireless data network...**". Although not expressly taught in Cloutier, given the teachings of Stein

it would have also been obvious to modify the teachings of Cloutier to receive the selected messages over a wireless network.

5. Accordingly the references supplied by the examiner in the previous office action cover the claimed limitations. Applicant's arguments with respect to claims 1-24 are moot in view of the new ground(s) of rejection. Applicant is requested to review the prior art of record for further consideration.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 4-7, 9-14, 16-20, 22-24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloutier, in view of Stein et al (hereinafter Stein), U.S. Patent 6,289,212 (supplied by Applicant).

8. In considering claims 1, 7, 14, and 19, Cloutier teaches a method and system for utilizing a push model to provide access to messages in one or more of a voice, a fax, an e-mail and a unified mailbox through a wireless network, the method comprising the steps of:

- a) Automatically receiving a message alert from a server 120 through a wireless network and viewing the alert on a wireless device 170, (col. 2, lines 30-41, Fig. 1);
- b) Forming a communication link through the wireless network thereby linking the wireless device and the server for receiving a message, and providing the message to the user, (col. 2, lines 41-45).

Although the method of Cloutier shows substantial features of the claimed invention, it fails to explicitly disclose:

- c) The message alert being a mailbox content list; selecting a message with the wireless device; and receiving the message over a wireless network.

Nevertheless, in a similar field of endeavor, Stein teaches a method for providing electronic mail services during network unavailability comprising:

- c) Receiving a mailbox content list from a server over a wireless network; scrolling through the mailbox content list with a wireless device; and selecting a message with the wireless device, (col. 3, lines 8-39).

Thus given the teachings of Stein, it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier to show the message alert being a mailbox content list that a user could scroll through on a wireless device in order to select a message to be received over the wireless network. This would have provided the user the flexibility to select which message the user desired to receive, in the case that multiple messages were available for the user on the server, Stein, col. 3, lines 24-32.

9. In considering claims 2, 9, and 20, Cloutier teaches a new message notification. See col. 2, lines 30-41.

10. In considering claims 4, 16, and 22, Cloutier teaches viewing the alert without accessing the wireless network. See col. 2, lines 30-41.

11. In considering claims 5, 17, and 23, Cloutier further teaches the user issuing a command using the wireless device. See col. 6, lines 50-54.

12. In considering claims 6, 18, and 24, Cloutier further teaches the server playing the message according to a command given by the user. See col. 6, lines 54-61.

13. In considering claim 10, the system of Cloutier provides a means for viewing a new message notification and an updated content list by a user with the wireless device. See col. 2, lines 30-41.

14. In considering claim 11, although the system of Cloutier shows substantial features of the claimed invention, it fails to explicitly disclose:

- a) Scrolling through a mailbox content list.

Nevertheless, in a similar field of endeavor, Stein teaches a method for providing electronic mail services during network unavailability comprising:

- a) Scrolling through a mailbox content list with a wireless device, (col. 3, lines 24-39).

Thus given the teachings of Stein, it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier to show scrolling through an updated mailbox content list with the wireless device. This would have provided the user the flexibility to select which message the user desired to receive, in the case that multiple messages were available for the user on the server along with the new message, Stein, col. 3, lines 24-32.

15. In considering claim 12, Cloutier further teaches a user selecting a message by issuing a command to the server. See col. 6, lines 50-54.

16. In considering claim 13, Cloutier further the server delivering the message selected by the user and the message being played for the user by the wireless device. See col. 6, lines 54-61.

17. Claims 3, 8, 15, 21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloutier, in view of Stein, and further in view of the Applicants Admitted Prior Art (AAPA).

18. In considering claims 3, 8, 15, and 21, although the combined methods of Cloutier and Stein show substantial features of the claimed invention, they fail to expressly disclose the wireless network having a low data-bandwidth, and a high-data latency.

Nevertheless, it was well known in the art at the time of the present invention for wireless networks to have a low data-bandwidth, and a high-data latency. This was admitted by the applicant in the specification on page 1, line 33, and page 2, lines 1-5.

Thus given the teachings of the AAPA it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier and Stein to show the wireless network having a low data-bandwidth, and a high-data latency. This would have shown that the methods of Cloutier and Stein work in networks that were well known at the time of the present invention such as wireless networks with low data-bandwidth, and high-data latency.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP/
1/24/05


ZARNI MAUNG
JURY PATENT EXAMINER